

To:	Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court United States District Court for the Western District of Washington on the following: ___ Patents or X **Trademarks**:

DOCKET NO.	DATE FILED	US District Court United States District Court for the Western District of Washington
2:08-cv-01224-JLR	8/14/08	
PLAINTIFF		DEFENDANT
Honey House LLC		J Endrody Enterprises Inc
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1. See attached	6.	11.
2.	7.	12.
3.	8.	13.
4.	9.	14.
5.	10.	15.

In the above-entitled case, the following patents(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY	
	Amendment ___ Answer ___ Cross Bill ___ Other Pleading ___	
PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.	PATENT OR TRADEMARK NO.
1.	6.	11.
2.	7.	12.
3.	8.	13.
4.	9.	14.
5.	10.	15.

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT

CLERK	(BY) DEPUTY CLERK	DATE
Bruce Rifkin	DI	8/18/08

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

HONEY HOUSE, LLC, a Washington limited
liability company,

Plaintiff,

v.

J. ENDRODY ENTERPRISES, INC., a Washington
corporation, d/b/a The Beekeeper's Secret,

Defendant.

Civil Action No.

COMPLAINT FOR DECLARATORY
JUDGMENT

COMPLAINT FOR DECLARATORY JUDGMENT

COMES NOW Plaintiff above-named, and herein avers and states as follows:

PARTIES

1. Plaintiff Honey House, LLC ("Honey House") is a limited liability company organized and existing under the laws of the state of Washington, having a principal place of business located at 7704 48th St. E., Fife, Washington 98424.

2. On information and belief, Defendant J. Endrody Enterprises, Inc., d/b/a The Beekeeper's Secret ("Beekeeper") is a business entity organized and existing under the laws of

1 the state of Washington, having a mailing address of P.O. Box 806, Medina, Washington 98039-
2 0806. Its registered agent is located at 16230 NE 95th Ct., Redmond, Washington 98052.

3
4 **JURISDICTION AND VENUE**

5 3. This is an action for declaratory relief and judgment under the trademark and
6 copyright laws of the United States, 15 U.S.C. § 1051 *et seq.*, 17 U.S.C. § 101 *et seq.*, and under
7 the laws of the state of Washington, RCW 19.77 *et seq.*, all as permitted under 28 U.S.C. § 2201
8 *et seq.*, and Fed. R. Civ. P. 57.

9
10 4. This Court has subject matter jurisdiction over Counts I and II pursuant to 28
11 U.S.C. §§ 1331 and 1338(a), 15 U.S.C. § 1121, and 28 U.S.C. § 2001, as these Counts arise
12 under the laws of the United States. This Court has subject matter jurisdiction over Count III
13 pursuant to 28 U.S.C. § 1367(a), as Count III sets forth a claim that is so related to the other
14 claims in this action within the Court's original jurisdiction that they form part of the same case
15 or controversy under Article III of the United States Constitution.

16
17 5. This Court has personal jurisdiction over the Defendant by virtue of, among other
18 things, Defendant's contacts and activities with and within the state of Washington and this
19 federal district including, but not limited to, conducting business in this District directly related
20 to this action, the transmission from and within the state of Washington of multiple
21 communications directed to Plaintiff and alleging violation of Defendant's purported trademark,
22 copyright, and other rights, including cease and desist letters alleging Plaintiff's infringement of
23 Defendant's purported trademark and copyright rights.

24
25 6. Venue is proper in this judicial District pursuant to 28 U.S.C. §§ 1391(b) and (c),
26 and 1400(a), because Defendant resides in and may be found in this judicial District per 28

U.S.C. § 1391(c), and a substantial part of the events or omissions giving rise to the claims occurred in this District.

BACKGROUND FACTS

7. On May 20, 2008, the United States Patent and Trademark Office duly and lawfully issued United States Trademark Registration No. 3,430,619 ("the Honey House Federal Mark") to Honey House. A true and correct printout of the mark as it appears in the United States Patent and Trademark Office's online database is attached hereto as Exhibit A. A true and correct copy of the Honey House Federal Mark registration certificate is also attached hereto as Exhibit B. The Honey House Federal Mark is valid, subsisting, enforceable and owned by Honey House.

8. In 2001, the Secretary of State of the state of Washington duly and lawfully issued Washington State Trademark Registration No. 29,477 ("the Honey House State Mark") to Ruth Ingles (f/k/a Ruth Willis), who subsequently transferred all right and interest in and to all registered and unregistered trademarks, including this mark and registration, to Honey House. A true and correct copy of the Honey House State Mark registration certificate is attached hereto as Exhibit C. The Honey House State Mark is valid, subsisting, enforceable and owned by Honey House.

9. Honey House has used and continues to use the Honey House Federal Mark and State Mark in connection with goods that it offers for sale and sells. The Honey House Federal Mark and State Mark are associated by customers of Honey House with the goods that Honey House sells, and identify Honey House for customers as the source of said goods.

1 10. Honey House's use of the Honey House Federal Mark and State Mark has been and
2 continues to be lawful, and not in violation of any rights under federal or Washington state law
3 that Beekeeper alleges it may presently possess or has possessed in the past.

4
5 11. Despite Honey House's lawful activities in using its intellectual property assets,
6 Defendant Beekeeper sent to Plaintiff Honey House a letter dated May 12, 2008, a copy of
7 which is annexed hereto as Exhibit D. Beekeeper's May 12, 2008 letter accused Honey House
8 of violating purported rights of Beekeeper, including "state trade name and state and federal
9 copyright and trademark rights." Beekeeper's May 12, 2008 letter further demanded that Honey
10 House immediately discontinue use of marks "in order to avoid commencement of a trademark
11 and copyright infringement action under both state and federal law."

12
13 12. Beekeeper thereafter sent a second letter, dated June 12, 2008, a copy of which is
14 annexed hereto as Exhibit E. Beekeeper's June 12, 2008 letter again alleged infringement by
15 Honey House of "federal copyright and trademark rights, as well as ... Washington State
16 trademark rights." Beekeeper's June 12, 2008 letter also requested that Honey House complete
17 a form provided with the letter to cancel Honey House's valid and enforceable Washington
18 State trademark registration.

19
20 13. Beekeeper thereafter sent a third letter, dated July 1, 2008, alleging trademark
21 infringement. A copy of this letter is attached hereto as Exhibit F.

22 14. Following a request on behalf of Honey House to explain the bases for Beekeeper's
23 various claims, Beekeeper sent a fourth letter with enclosures dated July 28, 2008, a copy of
24 which is annexed hereto as Exhibit G. Beekeeper's July 28, 2008 letter again alleged that
25
26

1 Honey House "is infringing on [Beekeeper's] state and federal trademark rights, as well as
2 federal copyright."

3 15. Beekeeper's July 28, 2008 letter goes on to allege that Beekeeper has "multiple
4 valid claims against [Honey House], including federal trademark infringement under the
5 Lanham Act; federal unfair competition under the Lanham Act; violation of the Federal
6 Trademark Dilution Act; violation of the Washington State Consumer Protection Act; federal
7 copyright infringement under the Federal Copyright Act of 1976; and unfair competition under
8 Washington common law." The July 28, 2008 letter demands that Honey House "pull all
9 inventory and materials ... and discontinue any further production and marketing." The letter
10 further threatens "an action in federal court..."
11

12 16. Beekeeper included with its July 28, 2008 letter the purported federal and state
13 trademark and copyright registrations on which its claims of infringement are allegedly based.
14 These include U.S. Trademark Reg. No. 2,156,752, Washington State Trademark Reg. No.
15 24,632, and U.S. Copyright Reg. Nos. TXu000793411 and TXu000736119 (see the enclosures
16 to Exhibit G).
17

18 17. On information and belief, the bee/circle/hexagon design that Beekeeper claims as
19 its exclusive federal trademark is and has been used for years in the form of a mold by
20 beekeepers in molding bees wax. This precise design is currently sold by Jones Bee Company,
21 for example, via the website with URL <http://www.jonesbee.com/plastic.html#beeswax>, product
22 descriptor "2-in-1 Hex Bee Mold." This and other third-party usage is, on information and
23 belief, without any right or license from Beekeeper, and negates any claim to exclusivity by
24 Beekeeper.
25
26

COUNT I

DECLARATORY JUDGMENT UNDER FEDERAL TRADEMARK LAWS

18. Plaintiff repeats and re-alleges paragraphs 1-17 as if fully set forth herein.

19. Defendant has accused Plaintiff of, among other things, federal trademark infringement and federal unfair competition under the Lanham Act, as well as violation of the Federal Trademark Dilution Act.

20. There is an actual and substantial controversy between Plaintiff and Defendant arising under the Federal Trademark Laws, 15 U.S.C. § 1051 *et seq.*

21. Plaintiff requests that the Court declare the rights and other legal relations between Plaintiff and Defendant under the Federal Trademark Laws, 15 U.S.C. § 1051 *et seq.*, and in particular declare that Plaintiff's use of the Honey House Federal Mark and Honey House State Mark does not and has not violated or infringed any rights that Defendant may have under the Federal Trademark Laws.

COUNT II

DECLARATORY JUDGMENT UNDER FEDERAL COPYRIGHT LAWS

22. Plaintiff repeats and re-alleges paragraphs 1-21 as if fully set forth herein.

23. Defendant has accused Plaintiff of, among other things, federal copyright infringement under the Federal Copyright Act of 1976.

24. There is an actual and substantial controversy between Plaintiff and Defendant arising under the Federal Copyright Laws, 17 U.S.C. § 101 *et seq.*

25. Plaintiff requests that the Court declare the rights and other legal relations between Plaintiff and Defendant under the Federal Copyright Laws, 17 U.S.C. § 101 *et seq.*, and in

1 particular declare that Plaintiff's Honey House Federal Mark and Honey House State Mark do
2 not and have not violated or infringed any rights that Defendant may have under the Federal
3 Copyright Laws.

4
5 **COUNT III**
6 **DECLARATORY JUDGMENT UNDER WASHINGTON STATE LAWS**

7 26. Plaintiff repeats and re-alleges paragraphs 1-25 as if fully set forth herein.

8 27. Defendant has accused Plaintiff of, among other things, violation of the
9 Washington State Consumer Protection Act, Washington trademark laws, and unfair
10 competition under Washington common law.

11 28. There is an actual and substantial controversy between Plaintiff and Defendant
12 arising under the Washington State Consumer Protection Act, Washington trademark laws, and
13 Washington common law, pursuant to RCW 19.86 *et seq.* and 19.77 *et seq.*

14 29. Plaintiff requests that the Court declare the rights and other legal relations between
15 Plaintiff and Defendant under the Washington State Consumer Protection Act, Washington
16 trademark laws, and Washington common law, and in particular declare that Plaintiff's use of
17 the Honey House Federal Mark and Honey House State Mark does not and has not violated or
18 infringed any rights that Defendant may have under the Washington State Consumer Protection
19 Act, Washington trademark laws, or Washington common law.
20
21

22
23 **PRAYER**

24 WHEREFORE, Plaintiff prays that the Court:
25
26

1 1. Enter judgment declaring that Plaintiff has not and is not violating any rights of
2 Defendant under the Trademark Laws of the United States, 15 U.S.C. § 1051 *et seq.*, and in
3 particular declare that Plaintiff's use of the Honey House Federal Mark and Honey House State
4 Mark does not and has not violated or infringed any rights that Defendant may have under the
5 Federal Trademark Laws;

6
7 2. Enter judgment declaring that Plaintiff has not and is not violating any rights of
8 Defendant under the Copyright Laws of the United States, 17 U.S.C. § 101 *et seq.*, and in
9 particular declare that Plaintiff's Honey House Federal Mark and Honey House State Mark do
10 not and have not violated or infringed any rights that Defendant may have under the Federal
11 Copyright Laws;

12
13 3. Enter judgment declaring that Plaintiff has not and is not violating any rights of
14 Defendant under the Washington State Consumer Protection Act, the Washington Trademark
15 Registration Act, or Washington common law, and in particular declare that Plaintiff's use of
16 the Honey House Federal Mark and Honey House State Mark does not and has not violated or
17 infringed any rights that Defendant may have under the Washington State Consumer Protection
18 Act, the Washington Trademark Registration Act, or Washington common law;

19 4. Award Plaintiff its attorneys' fees and costs of suit, as permitted by statute, rule,
20 equity, or otherwise; and

21
22 5. Award Plaintiff such other and further relief as the Court may deem just, equitable,
23 and appropriate.

24 6. Enter an injunction enjoining Defendant from any further allegation or conduct
25 which states or implies that Plaintiff is violating any of Defendant's asserted rights.
26

Date: August 14, 2008

/s/Neal H. Luna

Neal H. Luna

nluna@vjglaw.com

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Chicago, Illinois 60606

(312) 913-0001 Telephone

(312) 913-0002 Facsimile

Attorneys for Plaintiff HONEY HOUSE, LLC

EXHIBIT A



United States Patent and Trademark Office

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Trademarks > Trademark Electronic Search System (TESS)

TESS was last updated on Wed Aug 13 04:11:24 EDT 2008

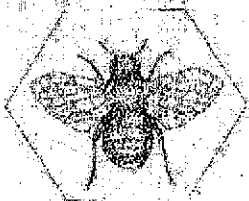
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Goods and Services	IC 003. US 001 004 006 050 051 052. G & S: Hand and body skin lotions and creams; Skin care and personal care products for adults, children and babies, namely, topical moisturizers, cosmetics, skin conditioners, finger nail and toe nail cuticle conditioners, and hair conditioners. FIRST USE: 20000815. FIRST USE IN COMMERCE: 20000815
Mark Drawing Code	(2) DESIGN ONLY
Design Search Code	03.23.06 - Bees; Hornets; Wasp; Yellowjackets 26.15.01 - Polygons as carriers or as single or multiple line borders
Trademark Search Facility Classification Code	ANI-INV Invertebrate; animals that are lacking a spinal column, have no backbone or internal skeleton SHAPES-GEOMETRIC Geometric figures and solids including squares, rectangles, quadrilaterals and polygons SHAPES-MISC Miscellaneous shaped designs
Serial Number	77276924
Filing Date	September 11, 2007
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	March 4, 2008
Change In Registration	CHANGE IN REGISTRATION HAS OCCURRED

Registration Number 3430619
Registration Date May 20, 2008
Owner (REGISTRANT) Honey House, L.L.C. DBA Honey House LTD LIAB CO WASHINGTON 7704 48th Street East Fife WASHINGTON 98424
Attorney of Record Neal Luna
Description of Mark Color is not claimed as a feature of the mark. The mark consists of an image of a honey bee enclosed within a honeycomb or hexagon. The stippling is for shading purposes only.
Type of Mark TRADEMARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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EXHIBIT B

The United States of America



**CERTIFICATE OF REGISTRATION
PRINCIPAL REGISTER**

The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.

The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.

A copy of the Mark and pertinent data from the application are part of this certificate.

To avoid CANCELLATION of the registration, the owner of the registration must submit a declaration of continued use or excusable non-use between the fifth and sixth years after the registration date. (See next page for more information.) Assuming such a declaration is properly filed, the registration will remain in force for ten (10) years, unless terminated by an order of the Commissioner for Trademarks or a federal court. (See next page for information on maintenance requirements for successive ten-year periods.)



Jon W. L. Dudas

Director of the United States Patent and Trademark Office

**REQUIREMENTS TO MAINTAIN YOUR FEDERAL
TRADEMARK REGISTRATION**

Requirements in the First Ten Years*

What and When to File:

- **First Filing:** A Declaration of Continued Use (or Excusable Non-use), filed between the 5th and 6th years after the registration date. (See 15 U.S.C. §1058; 37 C.F.R. §2.161.)
- **Second Filing:** A Declaration of Continued Use (or Excusable Non-use) **and** an Application for Renewal, filed between the 9th and 10th years after the registration date. (See 15 U.S.C. §1058 and §1059; 37 C.F.R. §2.161 and 2.183.)

Requirements in Successive Ten-Year Periods*

What and When to File:

- A Declaration of Continued Use (or Excusable Non-use) **and** an Application for Renewal, filed between each 9th and 10th-year period after the date when the first ten-year period ends. (See 15 U.S.C. §1058 and §1059; 37 C.F.R. §2.161 and 2.183.)

Grace Period Filings*

There is a six-month grace period for filing the documents listed above, with payment of an additional fee.

The U.S. Patent and Trademark Office (USPTO) will NOT send you any future notice or reminder of these filing requirements. Therefore, you should contact the USPTO approximately one year prior to the deadlines set forth above to determine the requirements and fees for submission of the required filings.

NOTE: *Electronic forms for the above documents, as well as information regarding current filing requirements and fees, are available online at the USPTO web site:*

www.uspto.gov

**YOUR REGISTRATION WILL BE CANCELLED IF YOU DO NOT
FILE THE DOCUMENTS IDENTIFIED ABOVE DURING THE
SPECIFIED TIME PERIODS.**

*Exception for the Extensions of Protection under the Madrid Protocol:

The holder of an international registration with an extension of protection to the United States must file, under slightly different time periods, a Declaration of Continued Use (or Excusable Non-use) at the USPTO. See 15 U.S.C. §1141k; 37 C.F.R. §7.36. The renewal of an international registration, however, must be filed at the International Bureau of the World Intellectual Property Organization, under Article 7 of the Madrid Protocol. See 15 U.S.C. §1141j; 37 C.F.R. §7.41.

Int. Cl.: 3

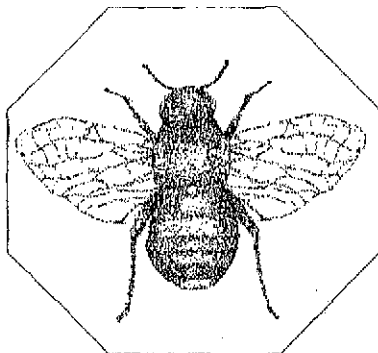
Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 3,430,619

Registered May 20, 2008

TRADEMARK
PRINCIPAL REGISTER



HONEY HOUSE, L.L.C. (WASHINGTON LTD
LIAB CO), DBA HONEY HOUSE
7704 48TH STREET EAST
FIFE, WA 98424

THE STIPPLING IS FOR SHADING PURPOSES
ONLY.

FOR: HAND AND BODY SKIN LOTIONS AND
CREAMS; SKIN CARE AND PERSONAL CARE
PRODUCTS FOR ADULTS, CHILDREN AND BA-
BIES, NAMELY, TOPICAL MOISTURIZERS, COS-
METICS, SKIN CONDITIONERS, FINGER NAIL
AND TOE NAIL CUTICLE CONDITIONERS, AND
HAIR CONDITIONERS, IN CLASS 3 (U.S. CLS. 1, 4, 6,
50, 51 AND 52).

THE MARK CONSISTS OF AN IMAGE OF A
HONEY BEE ENCLOSED WITHIN A HONEYCOMB
OR HEXAGON.

SER. NO. 77-276,924, FILED 9-11-2007.

FIRST USE 8-15-2000; IN COMMERCE 8-15-2000.

CIMMERIAN COLEMAN, EXAMINING ATTOR-
NEY

EXHIBIT C


**STATE OF WASHINGTON
SECRETARY OF STATE**

- Please PRINT or TYPE in black ink
• Sign, date and return original AND ONE COPY TO:

CORPORATIONS DIVISION
801 CAPITOL WAY SOUTH • PO BOX 4034
OLYMPIA, WA 98504-0234

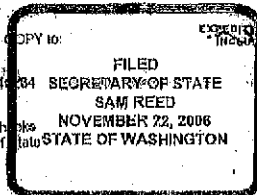
- BE SURE TO INCLUDE FILING FEE. Checks should be made payable to "Secretary of State"

**TRADEMARK
REGISTRATION/RENEWAL**

(Per Chapter 35.77 RCW)

FEE: \$50

EXPERIMENTAL TRADEMARKS AVAILABLE FOR REGISTRATION
• INCLUDING TRADE AND SERVICE MARKS IN SOLID COLORS
ON OUTSIDE OF ENVELOPE



IMPORTANT! Person to Contact about this Filing <u>Ruth Ingles</u>		File Number	FOR OFFICE USE ONLY 29477
Email Address <u>honeyhouse@comcast.net</u>	(Area Code) Daytime Phone Number <u>208-859-1566</u>	File Date <u>11/22/06</u>	Expiration Date <u>2/9/12</u>

NAME AND ADDRESS OF OWNER OF TRADEMARK	
Name <u>Ruth Ingles (aka Ruth Willis)</u>	Address <u>P.O. Box 340 P.O. E. Frankfort, OR</u>
City <u>Eagle Star</u>	State or Country <u>Id</u> ZIP or Postal Code <u>93616</u>

TYPE OF ORGANIZATION APPLYING	<input type="checkbox"/> Corporation <input type="checkbox"/> General Partnership <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Other	ORIGINALLY FORMED IN State/Country <u>WA</u> <u>Pierce</u>
-------------------------------	--	---

TRADEMARK INFORMATION	
1. Attach three (3) samples of the trademark, including one original, as it is to be registered.	
2. Describe the trademark as it is to be registered (if necessary, attach additional information): <u>Trade mark is a bee with a hexagon shape surrounding the bee</u>	
3. Goods or Services Classification Number: (goods or service classification numbers located on the backside or page two) <u># 3</u>	
4. Trademark is used in relation to (check one) <input checked="" type="checkbox"/> Goods <input type="checkbox"/> Services of the following description: <u>Hand & body lotions, soaps, candles</u>	
5. Describe the exact manner in which the trademark is used (if necessary, attach additional information): <u>Trade mark is attached to packaging of products literature, & on the product itself</u>	

PREVIOUS WASHINGTON TRADEMARK BY APPLICANT	
Registration Number: <u>29477</u>	Date Filed: <u>2-9-01</u>
DATE TRADEMARK WAS FIRST USED BY APPLICANT OR APPLICANT'S PREDECESSOR	
In any state or country: <u>WA, Pierce</u>	In Washington State: <u>1-2000</u>
SIGNATURE	
Applicant is the owner of and is now using the trademark identified above; I believe no other individual or entity has the right to use such trademark in connection with the same or similar goods or services in this state either in identical form or in such a near manner as might be mistaken, therefore.	
Signature <u>R Ingles</u>	Printed Name <u>Ruth Ingles</u> owner
	Date <u>10/20/06</u>

11/22/2006 953892
\$50.00 Check #10134
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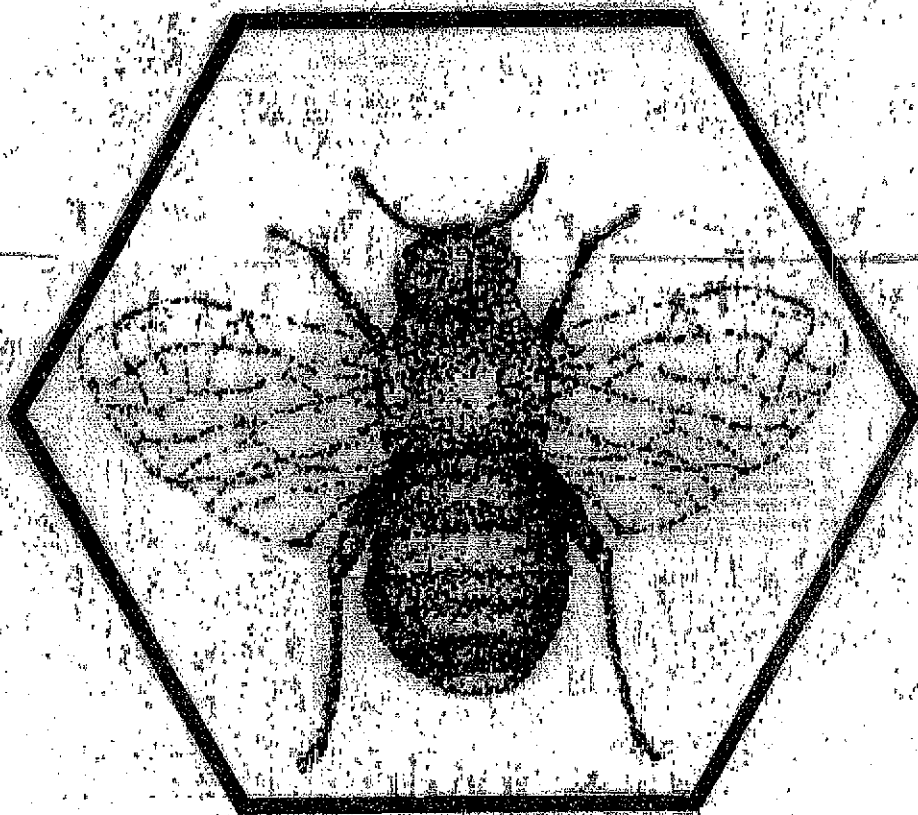


EXHIBIT D

HELSELL
FETTERMAN

May 12, 2008

Elizabeth J. Berns
Attorney At Law
EMAIL: ebarns@helsell.com
DIRECT DIAL: 206-389-2161

Ms. Ruth Ingles
The Honey House
7704 48th Street East
Fife, WA 98424

RE: Trademark, Copyright and Trade Name Infringement

Dear Ms. Ingles:

It has come to our attention as corporate counsel to Joyce M. Endrody, d/b/a The Beekeeper's Secret® of Medina, Washington that you and your business are currently marketing a product known as "The Honey House Bee Bar" in such a way that the product's name, logo and design are confusingly similar in the minds of the public to that which is marketed by our client.

It has further come to our attention that the registration of your conflicting mark was accepted in error by the Washington Secretary of State. As you will see in the attached copy of the email dated April 8, 2008 to Helsell Fetterman paralegal Irene Calvo, from the Secretary of State Trademark Office (and copied to your email address on that date), your trademark will be cancelled by the State Trademark Office.

In addition to cancellation of the registration of your mark, we request that you cease using the mark on or in connection with your products, including but not limited to hand and body lotions, soaps, and candles. Any sales of your products using a logo, packaging, colors, tie materials, and boxes which are identical or similar to our client's materials are and will be in violation of our client's legally protected state trade name and state and federal copyright and trademark rights.

Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200 TEL 206.292.1144
Seattle, WA 98154-1154 FAX 206.340.0902

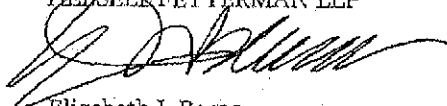
WWW.HELSELL.COM

May 12, 2008
Page 2

Your assurance that you have discontinued use of conflicting marks is requested immediately in order to avoid commencement of a trademark and copyright infringement action under both state and federal law. Thank you in advance for your cooperation.

Very truly yours,

HEISEL PETERMAN LLP



Elizabeth J. Berns

EJB:skc
Enclosure

EXHIBIT E

HELSELL
FETTERMAN

June 12, 2008

Elizabeth J. Berns
Attorney At Law
EMAIL: eberns@hicksel.com
DIRECT DIAL: 206-669-2461

SENT VIA CERTIFIED U.S. MAIL

Ms. Ruth Ingles
PO Box 340
Star, Idaho 83669

Re: Notice of Federal Copyright and Trademark Infringement and
Washington State Trademark Infringement

Dear Ms. Ingles:

Pursuant to our letter to you of May 12, 2008, we reiterate that your company's marketing and sale of The Honey House Bee Bar, a product with a design nearly identical to that of our client, Joyce M. Eadrody, d/b/a/The Beekeeper's Secret® infringes on our client's federal copyright and trademark rights, as well as its Washington State trademark rights.

There has been some confusion as to the authority of the state trademark office to unilaterally cancel your trademark registration. Regardless, we do request that you cancel the trademark registration of your bee design in order to avoid commencement of an infringement action against you and your company under both State and Federal law. In addition, we reiterate our request that you cease to use the mark on or in connection with your products such as the "bee bar," hand and body lotions, soaps, and candles.

In anticipation of your cooperation, we enclose herewith a Request for Cancellation of Trademark Registration form for your signature. Please return the signed form to us no later than June 24, 2008 for our filing with the state trademark office. Thank you in advance for your cooperation.

Very truly yours,

HELSELL FETTERMAN LLP


Elizabeth J. Berns

EJB:skc
Enclosure

Helsell Fetterman LLP
1001 Fourth Avenue, Suite 4200 TEL 206.292.1144
Seattle, WA 98154-1154 FAX 206.340.0902

WWW.HELSELL.COM

To: State of Washington, Secretary of State

From: Ruth Ingles, Owner

Re: Request for Cancellation of Trademark Registration No. 29477
Design of a Bee in a Hexagon

I hereby request cancellation of the trademark registration for my design of a bee inside a hexagon, trademark registration number #29477. This trademark is registered in Class 3 for hand and body lotions, soaps, and candles, and is used on packaging of products, literature and the product itself.

I further request that above-requested cancellation be effective immediately.

Signed this _____ day of _____, 2008

Ruth Ingles, Owner

EXHIBIT F

RECEIVED

JUL 02 2008

VANDEBERG JOHNSON & GANDARA

HELSELL
FETTERMAN

Elizabeth J. Berns
Attorney At Law
EMAIL: ebarns@helsell.com
DIRECT DIAL: 206-689-2161

July 1, 2008

Mr. Neal Luna
Vandenberg Johnson & Gandara, LLP
1201 Pacific Avenue, Suite 1900
Post Office Box 1315
Tacoma, Washington 98401-1315

Re: Honey House Federal Copyright and Trademark Infringement and
Washington State Trademark Infringement on The Beekeeper's
Secret® protected intellectual property.

Dear Mr. Luna:

Thank you for your letter of June 23, 2008 sent in response to our letters to Ms. Ruth Ingles (f/k/a Ruth Willis) with the Honey House, LLC.

I am on my way out of the office for a week's holiday and wanted you to know that I will be back in touch with you upon my return next week to discuss and hopefully resolve this matter.

In the meantime, please be advised that for so long as Ms. Ingles continues to use and market her products as previously referenced in our prior communication with her, she continues to infringe on our clients protected marks.

Very truly yours,

HELSELL FETTERMAN LLP

Elizabeth J. Berns

EJB:skc

EXHIBIT G

HELSELL
FETTERMAN

July 28, 2008

Elizabeth J. Berns
Attorney At Law
EMAIL: eberns@helsell.com
DIRECT DIAL: 206-689-2161

Mr. Neal Luna
Vandenberg Johnson & Gandara, LLP
1201 Pacific Avenue, Suite 1900
Post Office Box 1315
Tacoma, Washington 98401-1315

RECEIVED

JUL 29 2008

VANDEBERG JOHNSON & GANDARA

Re: Honey House Federal Copyright and Trademark Infringement and
Washington State Trademark Infringement on The Beekeeper's
Secret® protected intellectual property.

Dear Mr. Luna:

Following up on my July 1 letter, and in response to your June 23 letter, I provide the following. Based on the below information and attachments, Ms. Ingles dba Honey House, LLC is infringing on our client's state and federal trademark rights, as well as federal copyright.

State Trademark: My client filed for a state trademark on December 5, 1995. In her application she certified that she began using the mark and claiming rights accordingly, as early as May of 1995--long before your client began using her mark, which infringes on my client's state trademark. Attached as *Exhibit A* is a copy of my client's registered state trademark.

As you are aware, Ms. Ingles filed for a state trademark on November 22, 2006. She certified that she began using the mark in Washington State, in January of 2000. She also certified that she began using the mark in Idaho in April 2006. Attached as *Exhibit B*, is a copy of your client's registration and materials.

Your client's state trademark is strikingly similar to my client's state trademark. Both marks were filed in Class 3. Both marks are used on similar products, labeling and packaging materials, and in advertisements, and are offered to a common customer group.

Federal Trademark: My client filed for federal trademark rights for her design and word marks on April 24, 1997. Date of first use for the marks was again certified as being May 1995. Your client's state trademark is strikingly similar to my client's federal design mark. Again, both marks are used on similar products, labeling and

Mr. Neal Luna
July 28, 2008
Page 2

packaging materials, and in advertisements, and are offered to a common customer group. Attached as *Exhibit C* is a copy of the federal trademark.

Your client's use of a trademark consisting of a bee within a hexagon for Class 3 goods clearly infringes on my client's trademark, which also contains a bee within a hexagon for similar goods. My client clearly is the prior user of the mark, which has become distinctive and associated with my client's products in the relevant consumer community. Accordingly, the mark is an asset of significant value to my client, and your client's use of a confusingly similar mark to identify similar goods in competition with my client has and likely will continue to cause consumer confusion as to sponsorship of the goods.

My client has received communication from customers expressing confusion between the two products, due to the similarity of the marks. Customers have communicated with my client about product issues—confusing her with Ms. Ingles' business due to the product similarity. This kind of confusion has resulted in my client losing customers and sales as a result of misinformation within the relevant consumer group.

Further, there is evidence that your client's infringement is willful. Both my client and Ms. Ingles are crafters that market within the greater Pacific Northwest and across state lines predominantly via internet sales. My client is prepared to testify that she met Ms. Ingles in 1999 at a crafting event at Pacific Lutheran University. Ms. Ingles came to view her product and display at the event. At that time, to my client's knowledge, Ms. Ingles was selling honey. My client was later approached about her product by Ms. Ingles at an event at the Tacoma Dome, and has seen her frequently at various shows. Clearly she familiarized herself with my client's product before she began to develop and market her own.

In regard to your statement in your June 23 letter that the Washington Secretary of State's Trademark Office and the U.S. Patent and Trademark Office "have determined that our client's mark is substantially different than anything your client appears to be using," we do not believe this is supported by the record. As you are aware, your client has no federal registration and the USPTO has made no such determination. As you are also aware, the Washington Secretary of State's Trademark Office has acknowledged your client's mark was registered with the State in error. As D. Ann Peters from the Secretary of State's Trademark Office has stated in her April 5, 2008 email, by comparing your client's mark with our client's mark, "it appears to be an almost identical design." (*Exhibit D*.) Based on this, we previously requested that

Mr. Neal Luna
July 28, 2008
Page 3

your client, in good faith, complete and return a form to be filed with the Secretary of State's Trademark Office to cancel her infringing trademark. She has refused to do so.

Federal Copyright: My client obtained copyrights to her brochure with the hexagonal design as well as her circular label on January 21, 1997. Attached as *Exhibit E* is a copy of the copyright registrations. As my client owns the valid copyright which was copied by your client without authorization, your client is infringing on the copyright.

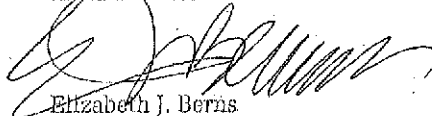
Based on the foregoing, my client has multiple valid claims against your client, including federal trademark infringement under the Lanham Act; federal unfair competition under the Lanham Act; violation of the Federal Trademark Dilution Act; violation of the Washington State Consumer Protection Act; federal copyright infringement under the Federal Copyright Act of 1976; and unfair competition under Washington common law.

We must insist at this time that your client immediately pull all inventory and materials (including labels and packaging) that show the mark, and discontinue any further production and marketing. We further reiterate our request that she immediately cancel her state trademark registration.

In the event your client does not cease and desist from continued use of the mark as requested, we will have no choice but to file an action in federal court, seek an immediate injunction, and seek all other remedies including any applicable statutory damages and attorney fees, and any other available damages, fees and costs. I hope we are able to conclude this matter without having to take such action.

Very truly yours,

HEISEN, FETTERMAN LLP



Elizabeth J. Berns

Enclosures
EJB:skc

EXHIBIT A

STATE of WASHINGTON



SECRETARY of STATE

I, **SAM REED**, Secretary of State of the State of Washington and custodian of its seal,
hereby issue this certificate that according to records on file in this office,
trademark:

THE BEEKEEPERS SECRET WITH DESIGN

registered in the State of Washington to

J. ENDRODY ENTERPRISES, INC.

names of partners: (if any)

state of incorporation: (if any) Washington and I further certify that such trademark
with file # 24632 was renewed on October 18, 2001 and will expire on December 5, 2007.

I further certify that the classification number of the trademark is 3 and the
actual goods or services with which the trademark is used are

All natural hand lotion in a cake, All natural night cream and lip balm,
and furniture polish.

The date the trademark was first used anywhere is May 1995 and the date the
trademark was first used in Washington is May 1995.

Date: October 24, 2001



Given under my hand and the Seal of the State
of Washington at Olympia, the State Capital

Sam Reed, Secretary of State



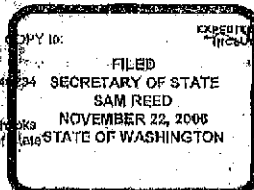
EXHIBIT B


**STATE OF WASHINGTON
SECRETARY OF STATE**

- Please PRINT or TYPE in black ink.
• Sign, date and return original AND ONE COPY TO:

CORPORATIONS DIVISION
801 CAPITOL WAY SOUTH • PO BOX 40234
OLYMPIA, WA 98504-0234

- BE SURE TO INCLUDE FILING FEE. Checks should be made payable to "Secretary of State".


**TRADEMARK
REGISTRATION/RENEWAL**

(Per Chapter 9A.77 RCW)

FEE: \$50

EXPEDITED (4-HOUR) SERVICE AVAILABLE - \$200 PER ENTRY
(Includes FEE AND WRITE & RECAPITULATE BOTH LETTERS
ONCE RECEIVED FROM THE



* 0 1 0 0 2 *

IMPORTANT! Person to Contact about this Filing <u>Ruth Ingles</u>		FBI OFFICE USE ONLY 29477	
E-mail Address <u>honeyhouse & connect.net 425-859-1566</u>		File Number	29477
(Area Code) Daytime Phone Number		File Date	11/22/06
		Expiration Date	2/9/12

NAME AND ADDRESS OF OWNER OF TRADEMARK			
Name	<u>Ruth Ingles (aka Ruth Willis)</u>		
Address	<u>P.O. Box 340 2945 Franklin Dr</u>		
City	<u>Eagle Star</u>	State or Country	<u>Id</u>
		ZIP or Postal Code	<u>83666</u>

TYPE OF ORGANIZATION APPLYING	<input type="checkbox"/> Corporation <input type="checkbox"/> General Partnership <input checked="" type="checkbox"/> Individual <input type="checkbox"/> Limited Liability Company (LLC) <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Other	ORIGINALLY FORMED IN State/Country <u>WA</u> <u>Pierce</u>
-------------------------------	--	---

TRADEMARK INFORMATION	
1. Attach three (3) samples of the trademark, including one original, as it is to be registered.	
2. Describe the trademark as it is to be registered (if necessary, attach additional information): <u>Trade mark is a bee with a hexagon shape surrounding the bee.</u>	
3. Goods or Services Classification Number: (goods or service classification numbers located on the backside of page two) <u># 3</u>	
4. Trademark is used in relation to (check one) <input checked="" type="checkbox"/> Goods <input type="checkbox"/> Services of the following description: <u>Hand & body lotions, soaps, candles</u>	
5. Describe the exact manner in which the trademark is used (if necessary, attach additional information): <u>Trade mark is attached to packaging of products literature, & on the product itself</u>	

PREVIOUS WASHINGTON TRADEMARK BY APPLICANT	
Registration Number:	<u>29477</u>
Date Filed:	<u>2-9-01</u>
DATE TRADEMARK WAS FIRST USED BY APPLICANT OR APPLICANT'S PREDECESSOR	
In any state or country:	<u>WA, Pierce</u>
In Washington State:	<u>1-2000</u>
SIGNATURE	
Applicant is the owner of and is now using the trademark identified above; I believe no other individual or entity has the right to use such trademark in connection with the same or similar goods or services in this state either in identical form or in such a manner as might be mistaken, therefore.	
Signature	<u>Ruth Ingles</u>
Printed Name	<u>Ruth Ingles owner</u>
Date	<u>10/25/06</u>

11/22/2006 9:58:02
\$50.00 Check #1633+
Tracking ID: 1189559
Doc No: 939002-001

11/22/2006 9:58:05
\$0.00 Document
Only
Tracking ID:
1189559
Doc No: 935891-001

83669

FOR OFFICIAL USE ONLY

91-002 (1/06)

#1189559

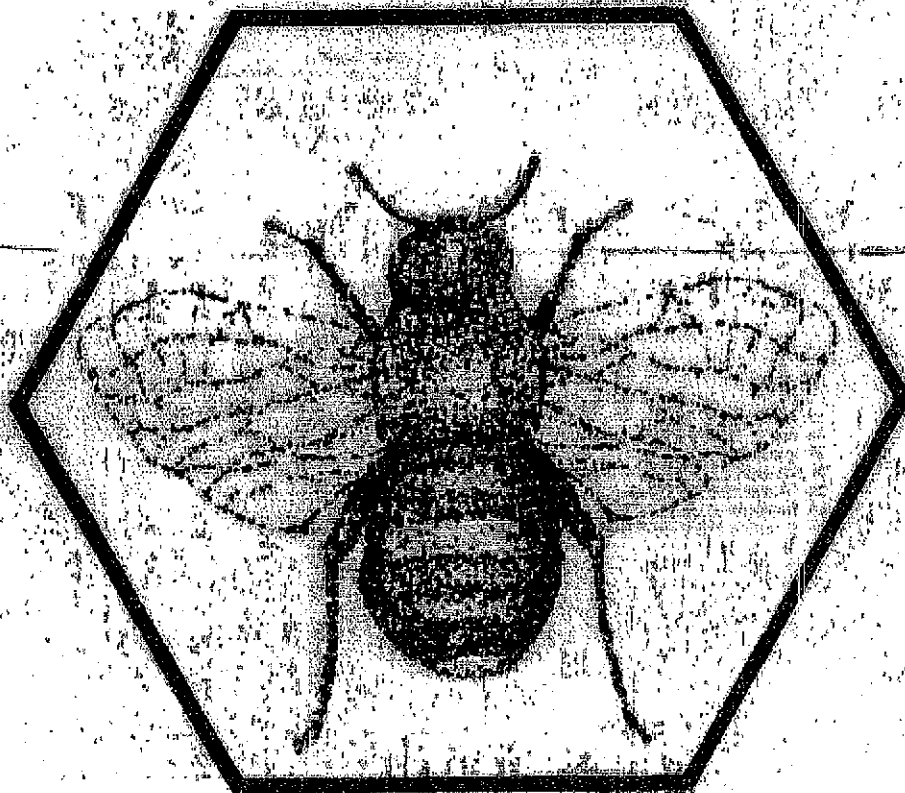


EXHIBIT C

Int. Cl.: 3

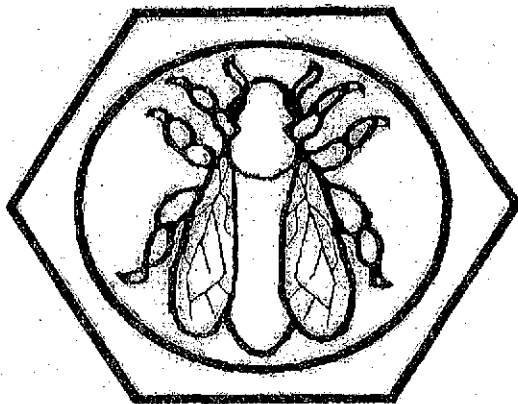
Prior U.S. Cls.: 1, 4, 6, 50, 51 and 52

Reg. No. 2,156,752

United States Patent and Trademark Office

Registered May 12, 1998

TRADEMARK
PRINCIPAL REGISTER



ENDRODY, JOYCE M. (UNITED STATES CITIZEN)
P.O. BOX 806
MEDINA, WA 980390806

FOR: PERSONAL CARE PREPARATIONS, NAMELY, BODY SOAPS, BODY LOTIONS, NON-MEDICATED LIP BALM, NIGHT CREAM AND FURNITURE POLISH ALL MADE WITH

NATURAL BEESWAX, IN CLASS 3 (U.S. CLS. 1, 4, 6, 50, 51 AND 52).

FIRST USE 5-0-1993; IN COMMERCE 5-0-1993.

THE LINING IS A FEATURE OF THE MARK AND DOES NOT INDICATE COLOR.

SER. NO. 75-280,744, FILED 4-24-1997.

LINDA E. BLOHM, EXAMINING ATTORNEY

EXHIBIT D

Calvo, Irene M.

From: Peters, D. Ann [dpeters@secstate.wa.gov]
Sent: Tuesday, April 08, 2008 1:50 PM
To: Calvo, Irene M.
Cc: honeyhouse@comcast.net
Subject: Washington trademark error
Attachments: SKMBT_50008041011570.pdf

Dear Ms. Irene Calvo:

In response to your call, it has come to our attention that a trademark this office accepted and filed was done in error. The trademark in question is #29477. The mark is that of a bee design within a hexagon outline. By comparing the trademark from your client with this one, it appears to be an almost identical design. I have included both trademarks in an attachment for your review. I am also forwarding this email to Ms. Ingles.

Ms. Ingles I am letting you know that your trademark is going to be cancelled due to the similar design. The trademark that you filed was for Washington state only. I will also be refunding your filing fee.

D. Ann Peters

Customer Service Supervisor
Office of the Secretary of State
Corporations Division
(360)725-0377

4/8/2008

EXHIBIT E

Type of Work: Text

Registration Number / Date:
TXu000793411 / 1997-01-21

Application Title: Square folding brochure with hexagonal design.

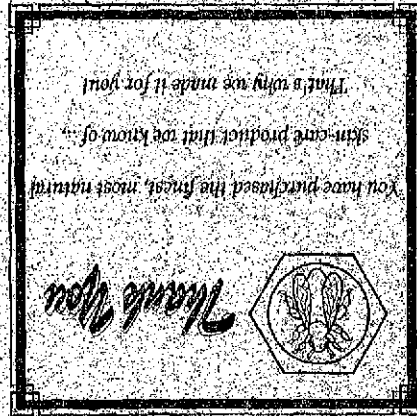
Title: We hope you like the Beekeeper's Secret.

Copyright Claimant:
Joyce M. Endrody

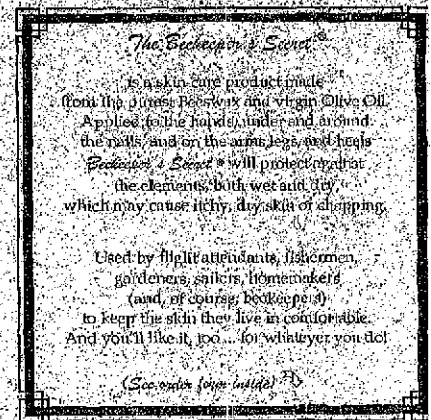
Date of Creation: 1995

Names: Endrody, Joyce M.

=====



© 1995-2004



When you need more of *The Beekeeper's Secret*® — either for yourself or for gifts — we can ship them to you by return mail. Just fill out the Order Form below and return it to us with your payment. (Check or money-order only, please. Do not send cash in the mail.)

ORDER FORM

- ☒ Yes, please send me _____ cakes
@ \$11.00 ea ...\$ _____
- ☒ Yes, please send me _____
Travel bars @ \$15.00 ea ...\$ _____
(The Beecake in a travel container)
- ☒ Yes, please send me _____
All Natural Lip Balm
@ \$3.50 ea ...\$ _____
- ☒ Yes please send me _____
Honey Almond Cuticle Cream
@ \$3.75 ea ...\$ _____
- ☒ Yes, please send me _____
Night Moisturizer cream(s)
@ \$25.00 ea ...\$ _____
- ☒ Yes, please send me _____
Gift Packages @ \$27.95 ea ...\$ _____
(Incls. Cake, lip tube, cuticle cream
and ceramic dish for cake)
- Subtotal ...\$ _____
- WA res. 3.8% sales tax ...\$ _____
- SHIPPING & HANDLING**
0—\$8.00 = \$1.50
Over \$8.00 = 18% of subtotal ...\$ _____
- TOTAL** ...\$ _____

• **SHIP TO -**
• (please print)

NAME _____
STREET _____
CITY _____
STATE/ZIP _____

www.beekeeperssecret.com

SPECIAL INSTRUCTIONS

Please specify the color you would like for the ceramic dish in the Gift Package.

Return with payment to:

The Beekeeper's Secret®

P.O. Box 806

Medina, WA 98039-0806

Type of Work: Visual Material

Registration Number / Date:
TXu000736119 / 1997-01-21

Application Title: Circular label showing a bee in a circle lying within a hexagon.

Title: The beekeeper's secret.

Description: Label.

Copyright Claimant:
Joyce M. Endrody

Date of Creation: 1995

Names: Endrody, Joyce M.

=====

